

## **REMARKS**

### **FORMAL MATTERS:**

Claims 22, 24-29 and 45 are pending after entry of the amendments set forth herein.

Claims 1-21, 23, 30-44 and 46 are canceled without prejudice.

Claim 22 is amended. Support for these amendments is found in previously pending now canceled claim 23.

The amendment to claim 22 incorporates a limitation contained within a previously pending now canceled dependent claim. Accordingly, this amendment is believed to be made as of right under 37 C.F.R. §1.116 and its entry is respectfully requested.

The other amendments involved cancellation of claims and such would narrow any issues on appeal and the entry of these amendments is respectfully requested.

No new matter is added.

### **ELECTION/RESTRICTIONS**

The Office Action indicated that claims 40, 31-35, 42-44 and 46 were directed to an independent invention. Without acquiescing to the Restriction Requirement applicants wish to expedite prosecution. Accordingly, these claims have been canceled from the application rendering the rejection moot.

### **REJECTIONS UNDER §101**

Claims 37-38 and 41 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Without acquiescing to the validity of the rejection applicants have cancelled these claims from the application in order to expedite prosecution of the application. Accordingly, the rejection has been rendered moot.

### **REJECTIONS UNDER §103(A)**

Claims 22-23, 29 and 39 are rejected under 35 U.S.C §103(a) as being unpatentable over Arditi (USP 5,526,816) in view of Benaron (USP 5,167,297).

The rejection is traversed as applied and as it might be applied to the presently pending claims.

All of the rejections but for the rejection with respect to claim 23 in numbered paragraph 5 bridging pages 9 and 10 have been rendered moot by the amendment to claim 22. Claim 22 now includes the limitations of dependent claim 23 which specifically indicates that the system is at least partially disabled in the absence of the distinctive signature characteristic of the processing agent. Such a method step makes it possible to utilize the method as a policing agent in an arrangement such as a licensing arrangement. For example, one can use a magnetic resonance scan which includes a contrast agent as the processing agent which contrast agent has a distinctive property which is its signature. The system is automatically disabled at least in part depending on whether the system sees the signature or not. Thus, the method makes it possible to police and enforce a software license while using the distinctive signature of the contrast agent.

None of the prior art including Arditi and Benaron include the concept of an automatic enabling or disabling step based on the presence or absence of a distinctive signature. Applicants recognize that Arditi does use a contract agent which is capable of giving increased contrast if the user makes use of certain specific frequencies. Although Arditi refers to these as signature frequencies there is no suggestion that the presence or absence of these signatures would enable or disable aspects of the operation of the process. Arditi does use a resonant frequency of a contrast agent and compare it with a scan at another frequency to get high contrast. However, the processing of Arditi is predetermined or preset. They do not disclose the concept of a machine which tests for the presence or absence of a signature and then after determining its presence or absence changes its behavior such as partially disabling the system when the signature is not present.

## **CONCLUSION**

Claim 22 has been amended to incorporate limitations contained within claim 23 and this amendment is believed to be proper under 37 C.F.R. §1.116 in that it incorporates the limitations contained within a previously pending now canceled dependent claim thereby reducing the number of claims and the issues on appeal. In response to the Restriction Requirement the claims indicated as encompassing non-elected subject matter have been canceled rendering the issue moot. Without acquiescing to the 35 U.S.C. §101 rejection the claims rejected have been canceled thereby rendering this rejection moot. Lastly, with respect to the 35 U.S.C. §103 rejection most of the arguments put forth within the Office Action have been rendered moot by the amendment to claim 22 incorporating the limitations of claim 23. As explained above the cited references as taken alone or in combination do not

disclose a method whereby the system is at least partially disabled based on the presence of absence of the distinctive signature characteristic of the processing agent. The cited art does not disclose the concept of a machine which tests for the presence or absence of a signature and then after determining its presence or absence changes its behavior such as partially disabling the system when the signature is not present. In view of such reconsideration and withdrawal of the rejections and allowance of the application is respectfully requested.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number KEMP-011.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP



Date: 12 May 2008

By: \_\_\_\_\_

Karl Bozicevic  
Registration No. 28,807

BOZICEVIC, FIELD & FRANCIS LLP  
1900 University Avenue, Suite 200  
East Palo Alto, California 94303  
Telephone: (650) 327-3400  
Facsimile: (650) 327-3231